

# ASSEMBLY, No. 3057

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**SYNOPSIS**

Modifies requirements for preliminary site plans and subdivisions under Municipal Land Use Law.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning site plans and subdivisions and amending  
2 P.L.1975, c.291.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 3.4 of P.L.1975, c.291 (C.40:55D-7) is amended to  
8 read as follows:

9 3.4. "Sedimentation" means the deposition of soil that has been  
10 transported from its site of origin by water, ice, wind, gravity or  
11 other natural means as a product of erosion.

12 "Sending zone" means an area or areas designated in a master  
13 plan and zoning ordinance, adopted pursuant to P.L.1975,  
14 c.291 (C.40:55D-1 et seq.), within which development may be  
15 restricted and which is otherwise consistent with the provisions of  
16 section 8 of P.L.2004, c.2 (C.40:55D-144).

17 "Site plan" means a development plan of one or more lots on  
18 which is shown (1) the existing and proposed conditions of the lot,  
19 including but not necessarily limited to topography, vegetation,  
20 drainage, flood plains, marshes and waterways, (2) the location of  
21 all existing and proposed buildings, drives, parking spaces,  
22 walkways, means of ingress and egress, drainage facilities, utility  
23 services, landscaping, structures and signs, lighting, screening  
24 devices, and (3) any other information that may be reasonably  
25 required in order to make an informed determination pursuant to an  
26 ordinance requiring review and approval of site plans by the  
27 planning board adopted pursuant to article 6 of **[this act]** P.L.1975,  
28 c.291 (C.40:55D-37 et seq.); provided, however, with respect to an  
29 application for development for preliminary approval of a site plan,  
30 the site plan shall be limited to the information specified in section  
31 34 of P.L.1975, c.291 (C.40:55D-46).

32 "Standards of performance" means standards (1) adopted by  
33 ordinance pursuant to subsection 52d. regulating noise levels, glare,  
34 earthborn or sonic vibrations, heat, electronic or atomic radiation,  
35 noxious odors, toxic matters, explosive and inflammable matters,  
36 smoke and airborne particles, waste discharge, screening of  
37 unsightly objects or conditions and such other similar matters as  
38 may be reasonably required by the municipality or (2) required by  
39 applicable federal or State laws or municipal ordinances.

40 "State Transfer of Development Rights Bank," or "State TDR  
41 Bank," means the bank established pursuant to section 3 of  
42 P.L.1993, c.339 (C.4:1C-51).

43 "Street" means any street, avenue, boulevard, road, parkway,  
44 viaduct, drive or other way (1) which is an existing State, county or  
45 municipal roadway, or (2) which is shown upon a plat heretofore

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 approved pursuant to law, or (3) which is approved by official  
2 action as provided by this act, or (4) which is shown on a plat duly  
3 filed and recorded in the office of the county recording officer prior  
4 to the appointment of a planning board and the grant to such board  
5 of the power to review plats; and includes the land between the  
6 street lines, whether improved or unimproved, and may comprise  
7 pavement, shoulders, gutters, curbs, sidewalks, parking areas and  
8 other areas within the street lines.

9 "Structure" means a combination of materials to form a  
10 construction for occupancy, use or ornamentation whether installed  
11 on, above, or below the surface of a parcel of land.

12 "Subdivision" means the division of a lot, tract or parcel of land  
13 into two or more lots, tracts, parcels or other divisions of land for  
14 sale or development. The following shall not be considered  
15 subdivisions within the meaning of this act, if no new streets are  
16 created: (1) divisions of land found by the planning board or  
17 subdivision committee thereof appointed by the chairman to be for  
18 agricultural purposes where all resulting parcels are 5 acres or  
19 larger in size, (2) divisions of property by testamentary or intestate  
20 provisions, (3) divisions of property upon court order, including but  
21 not limited to judgments of foreclosure, (4) consolidation of  
22 existing lots by deed or other recorded instrument and (5) the  
23 conveyance of one or more adjoining lots, tracts or parcels of land,  
24 owned by the same person or persons and all of which are found  
25 and certified by the administrative officer to conform to the  
26 requirements of the municipal development regulations and are  
27 shown and designated as separate lots, tracts or parcels on the tax  
28 map or atlas of the municipality. The term "subdivision" shall also  
29 include the term "resubdivision."

30 "Transcript" means a typed or printed verbatim record of the  
31 proceedings or reproduction thereof.

32 "Variance" means permission to depart from the literal  
33 requirements of a zoning ordinance pursuant to sections 47 and  
34 subsections 29.2b., 57c. and 57d. of this act.

35 "Wind, solar or photovoltaic energy facility or structure" means a  
36 facility or structure for the purpose of supplying electrical energy  
37 produced from wind, solar, or photovoltaic technologies, whether  
38 such facility or structure is a principal use, a part of the principal  
39 use, or an accessory use or structure.

40 "Zoning permit" means a document signed by the administrative  
41 officer (1) which is required by ordinance as a condition precedent  
42 to the commencement of a use or the erection, construction,  
43 reconstruction, alteration, conversion or installation of a structure or  
44 building and (2) which acknowledges that such use, structure or  
45 building complies with the provisions of the municipal zoning  
46 ordinance or variance therefrom duly authorized by a municipal  
47 agency pursuant to sections 47 and 57 of this act.

48 (cf: P.L.2009, c.146, s.2)

1       2. Section 34 of P.L.1975, c.291 (C.40:55D-46) is amended to  
2 read as follows:

3       34. a. (1) An ordinance requiring site plan review and approval  
4 shall require **【that】** the developer to submit to the administrative  
5 officer **【a site plan and such other information as is reasonably**  
6 **necessary to make an informed decision as to whether the**  
7 **requirements necessary】** an application for development for  
8 preliminary approval of the site plan **【approval have been met.**  
9 **The】** , which shall include a site plan **【and any engineering**  
10 **documents to be submitted shall be required】** in tentative form and  
11 supporting documents for discussion purposes for preliminary  
12 approval. **【If any architectural plans are required to be submitted**  
13 **for site plan approval, the preliminary plans and elevations shall be**  
14 **sufficient.】**

15       (2) (a) Review of an application for development for  
16 preliminary approval of a site plan shall be limited to the following  
17 zoning ordinance and site plan ordinance criteria only:

18       (i) layout and arrangement of proposed buildings, streets,  
19 parking, and other proposed site improvements; and

20       (ii) compliance with the use, density, floor area ratio, height,  
21 and other standards in the zoning ordinance applicable to the zoning  
22 district.

23       (b) Review of an application for development for preliminary  
24 approval of a site plan shall not include review of: stormwater  
25 design and drainage calculations; grading; utility; soil erosion and  
26 sediment control; architectural design; lighting; or landscaping  
27 plans and specifications.

28       (c) (i) A developer shall include in an application for  
29 development for preliminary approval of a site plan any variances  
30 for which the developer seeks approval pursuant to subsection c. of  
31 section 57 of P.L.1975, c.291 (C.40:55D-70) from zoning ordinance  
32 provisions governing the criteria set forth in subparagraph (a) of  
33 this paragraph.

34       (ii) A developer may include in an application for development  
35 for preliminary approval of a site plan any other variances for  
36 which the developer seeks approval under subsection c. of section  
37 57 of P.L.1975, c.291 (C.40:55D-70) and any exceptions for which  
38 the developer seeks approval pursuant to subsection b. of section 39  
39 of P.L.1975, c.291 (C.40:55D-51). A developer may defer requests  
40 for other variances or exceptions until final approval.

41       (iii) If an application for development for preliminary approval  
42 of a site plan requests a variance or variances under subsection c. of  
43 section 57 of P.L.1975, c.291 (C.40:55D-70), the planning board  
44 may request and consider additional information as is reasonably  
45 necessary for the board to render a decision on the requested  
46 variance or variances in accordance with the criteria for approval of

1 the variance or variances under subsection c. of section 57 of  
2 P.L.1975, c.291 (C.40:55D-70).

3 (d) Review relative to assessment of contributions for off-tract  
4 improvements pursuant to section 30 of P.L.1975, c.291 (C.40:55D-  
5 42) shall occur at the time of final approval.

6 (3) Except as provided in paragraph (3) of subsection b. of this  
7 section, an ordinance providing for the review of an application for  
8 development for preliminary approval of a site plan shall require an  
9 applicant to submit only the following documents and information  
10 in order for the application for development, with or without  
11 variances or exceptions, to be deemed complete:

12 (a) A location map of the subject property showing land within  
13 200 feet.

14 (b) A site plan, at a minimum scale of one inch per 50 feet,  
15 except that for sites less than three acres, a 30 foot scale and for  
16 sites less than two acres, a 20 foot scale, showing:

17 (i) topography with two-foot contours; provided, however, that  
18 for sites less than three acres the planning board may require  
19 topography with one-foot contours or spot grades reasonably  
20 necessary to determine the elevations of the existing conditions on  
21 the site;

22 (ii) the location, square footage, and floor area of proposed  
23 residential buildings and the number of proposed dwelling units;

24 (iii) the location, square footage, floor area, and conceptual  
25 elevations of proposed multi-family and non-residential buildings;

26 (iv) conformance with applicable use, density, floor area ratio,  
27 height, and other bulk standards in the zoning ordinance;

28 (v) location and classification of streets, parking areas, and  
29 circulation layout, as applicable, along with a statement from the  
30 design engineer addressing the safety and sufficiency of onsite  
31 vehicular and pedestrian circulation and ingress and egress to and  
32 from the subject property;

33 (vi) location and type of any stormwater detention or retention  
34 facilities, with a statement from the design engineer setting forth the  
35 basis for the estimated size of these facilities. No other engineering  
36 design of proposed grading or stormwater management structures,  
37 detailed stormwater management plans, or drainage calculations  
38 shall be required;

39 (vii) the approximate location of onsite streams, lakes, ponds,  
40 wetlands, wetlands transition areas, flood hazard areas, and riparian  
41 zones, identifying the source for this information, and a statement  
42 setting forth the anticipated impacts the proposed development may  
43 have on these environmental resources. Any survey submitted to  
44 satisfy this requirement shall be prepared and signed by a licensed  
45 land surveyor, however, a copy of the survey with a copy of the  
46 original signature shall be accepted if the source of the survey is  
47 clearly identified;

1     (viii) property boundaries based on deed information or a  
2 survey, at the developer's option. Any survey submitted to satisfy  
3 this requirement shall be prepared and signed by a licensed land  
4 surveyor, however, a copy of the survey with a copy of the original  
5 signature shall be accepted if the source of the survey is clearly  
6 identified;

7     (ix) If a current survey is not submitted, the application shall  
8 include a certification signed by a licensed professional engineer or  
9 licensed land surveyor indicating that the submitted survey truly  
10 represents current conditions of the site.

11     (c) An identification of proposed sources of potable water and  
12 wastewater treatment facilities.

13     (d) Any variances or exceptions being requested by the  
14 developer for the proposed development.

15     With regard to any application for development for preliminary  
16 approval of a site plan or other relief submitted under this section  
17 after the effective date of P.L.     , c.     , the list of documents and  
18 information in this paragraph shall supersede the requirements of  
19 any checklist adopted by ordinance pursuant to section 5 of  
20 P.L.1984, c.20 (C.40:55D-10.3). This paragraph shall not  
21 supersede the requirements of any checklist adopted by ordinance  
22 pursuant section 5 of P.L.1984, c.20 (C.40:55D-10.3) for an  
23 application for development for final approval of a site plan.

24     b. **【If the planning board required any substantial amendment**  
25 **in the layout of improvements proposed by the developer that have**  
26 **been the subject of a hearing, an amended application for**  
27 **development shall be submitted and proceeded upon, as in the case**  
28 **of the original application for development.】** (1) The planning  
29 board shall **【, if the proposed development complies with the**  
30 **ordinance and this act,】** grant preliminary approval of a site plan  
31 **【approval】** if the proposed development complies with ordinance  
32 provisions governing the criteria subject to review in connection  
33 with an application for development for preliminary approval of a  
34 site plan under subsection a. of this section.

35     (2) A developer granted preliminary approval of a site plan  
36 based on an application for development limited to the documents  
37 and information set forth in paragraph (3) of subsection a. of this  
38 section shall not construct site infrastructure improvements prior to  
39 the grant of final site plan approval.

40     (3) (a) A developer seeking authorization to construct site  
41 infrastructure improvements prior to the grant of final site plan  
42 approval shall:

43     (i) specifically request authorization to construct site  
44 infrastructure improvements prior to the grant of final site plan  
45 approval in the application for development for preliminary  
46 approval of the site plan, and

1       (ii) submit as part of the application for development for  
2 preliminary approval of the site plan all of the required plans and  
3 specifications for the proposed site infrastructure improvements.

4       (b) The planning board may require a developer seeking to  
5 construct site infrastructure improvements prior to the grant of final  
6 site plan approval to submit information as is reasonably necessary  
7 for the board to review the plans and specifications with a sufficient  
8 level of scrutiny to determine whether the proposed site  
9 infrastructure improvements have been adequately designed to  
10 accommodate and support the proposed development.

11       (c) Preliminary approval of a site plan authorizing a developer  
12 to construct site infrastructure improvements prior to the grant of  
13 final site plan approval shall specifically so provide in the  
14 resolution of approval.

15       (4) As used in this section, “site infrastructure improvements”  
16 shall include, but not be limited to: roadways, grading, sidewalks,  
17 street lighting, storm drainage, underground utility systems for  
18 sewage, water, and natural gas and clearing, and grubbing.

19       c. **【Upon the submission to the administrative officer of a**  
20 **complete application for a 】** (1) A planning board shall grant or  
21 deny preliminary approval of a site plan which involves 10 acres of  
22 land or less, and 10 dwelling units or less, 【the planning board shall  
23 grant or deny preliminary approval】 within 45 days of the date 【of  
24 such submission】 a complete application for development for  
25 preliminary approval of the site plan is submitted to the  
26 administrative officer or within such further time as may be  
27 consented to by the developer. 【Upon the submission of a complete  
28 application for a】

29       (2) A planning board shall grant or deny preliminary approval of  
30 a site plan which involves more than 10 acres, or more than 10  
31 dwelling units, 【the planning board shall grant or deny preliminary  
32 approval】 within 【95】 75 days of the date 【of such submission】 a  
33 complete application for development for preliminary approval of  
34 the site plan is submitted to the administrative officer or within such  
35 further time as may be consented to by the developer. 【Otherwise】

36       (3) If a planning board does not grant or deny preliminary  
37 approval of a site plan within the timeframe specified in paragraph  
38 (1) or (2) of this subsection, the planning board shall be deemed to  
39 have granted preliminary approval of the site plan.

40       d. A developer shall submit an application for development for  
41 amended preliminary approval of a site plan if, after the grant of  
42 preliminary site plan approval, the developer:

43       (1) seeks to make any substantial revisions to the layout of  
44 improvements;

45       (2) seeks to increase the density for residential development by  
46 more than 10 percent or the floor area ratio for nonresidential  
47 development by more than 10 percent;

1       (3) seeks to make any change to the site plan that requires a  
2 variance from a zoning ordinance governing criteria subject to  
3 review in connection with an application for development for  
4 preliminary approval of a site plan pursuant to subparagraph (a) of  
5 paragraph (2) of subsection a. of this section; or

6       (4) seeks to make any change to the site plan that affects the  
7 basis upon which any variance had been granted.

8       e. A developer may, at its option, submit an application for  
9 development for preliminary approval of a site plan, or an  
10 application for development for amended preliminary approval of a  
11 site plan, simultaneous with an application for development for  
12 final approval of a site plan, in which case the planning board shall  
13 simultaneously review and act upon the applications for preliminary  
14 approval and final approval.

15 (cf: P.L.1984, c.20, s.8)

16  
17       3. Section 36 of P.L.1975, c.291 (C.40:55D-48) is amended to  
18 read as follows:

19       36. a. (1) An ordinance requiring subdivision approval by the  
20 planning board shall require [that] the developer to submit to the  
21 administrative officer [a plat and such other information as is  
22 reasonably necessary to make an informed decision as to whether  
23 the requirements necessary] an application for development for  
24 preliminary approval [have been met; provided that minor  
25 subdivisions pursuant to section 35 of this act shall not be subject to  
26 this section. The] of the subdivision, which shall include a plat  
27 [and any other engineering documents to be submitted shall be  
28 required] in tentative form and supporting documents for discussion  
29 purposes for preliminary approval. Minor subdivisions pursuant to  
30 section 35 of P.L.1975, c.291 (C.40:55D-47) shall not be subject to  
31 this section.

32       (2) (a) Review of an application for development for  
33 preliminary approval of a subdivision shall be limited to the  
34 following zoning ordinance and site plan ordinance criteria only:

35       (i) layout and arrangement of proposed lots, as well as any  
36 proposed streets, parking, known easements, and other proposed  
37 site improvements; and

38       (ii) compliance with the use, density, and other standards in the  
39 zoning ordinance applicable to the zoning district.

40       (b) Review of an application for development for preliminary  
41 approval of a subdivision shall not include review of: stormwater  
42 design and drainage calculations; grading; utility; soil erosion and  
43 sediment control; architectural design; lighting; or landscaping  
44 plans and specifications.

45       (c) (i) A developer shall include in an application for  
46 development for preliminary approval of a subdivision any  
47 variances for which the developer seeks approval pursuant to



1 subsection c. of section 57 of P.L.1975, c.291 (C.40:55D-70) from  
2 zoning ordinance provisions governing the criteria set forth in  
3 subparagraph (a) of this paragraph.

4 (ii) A developer may include in an application for development  
5 for preliminary approval of a subdivision any other variances for  
6 which the developer seeks approval under subsection c. of section  
7 57 of P.L.1975, c.291 (C.40:55D-70) and any exceptions for which  
8 the developer seeks approval pursuant to subsection b. of section 39  
9 of P.L.1975, c.291 (C.40:55D-51). A developer may defer requests  
10 for other variances or exceptions until final approval.

11 (iii) If an application for development for preliminary approval  
12 of a subdivision requests a variance or variances under subsection c.  
13 of section 57 of P.L.1975, c.291 (C.40:55D-70), the planning board  
14 may request and consider additional information as is reasonably  
15 necessary for the board to render a decision on the requested  
16 variance or variances in accordance with the criteria for approval of  
17 the variance or variances under subsection c. of section 57 of  
18 P.L.1975, c.291 (C.40:55D-70).

19 (d) Review relative to assessment of contributions for off-tract  
20 improvements pursuant to section 30 of P.L.1975, c.291 (C.40:55D-  
21 42) shall occur at the time of final approval.

22 (3) Except as provided in paragraph (3) of subsection b. of this  
23 section, an ordinance providing for the review of an application for  
24 development for preliminary approval of a subdivision shall require  
25 an applicant to submit only the following documents and  
26 information in order for the application for development, with or  
27 without variances or exceptions, to be deemed complete:

28 (a) A location map of the subject property showing land within  
29 200 feet.

30 (b) A subdivision, at a minimum scale of one inch per 50 feet,  
31 except that for sites less than three acres, a 30 foot scale and for  
32 sites less than two acres, a 20 foot scale, showing:

33 (i) topography with two-foot contours; ; provided, however,  
34 that for sites less than three acres the planning board may require  
35 topography with one-foot contours or spot grades reasonably  
36 necessary to determine the elevations of the existing conditions on  
37 the site;

38 (ii) the location and layout of proposed lots;

39 (iii) conformance with applicable use, density, and bulk  
40 standards in the zoning ordinance;

41 (iv) location and classification of streets, parking areas, and  
42 circulation layout, as applicable, along with a statement from the  
43 design engineer addressing the safety and sufficiency of onsite  
44 vehicular and pedestrian circulation and ingress and egress to and  
45 from the subject property;

46 (v) location and type of any stormwater detention or retention  
47 facilities, with a statement from the design engineer setting forth the  
48 basis for the estimated size of these facilities. No other engineering

1 design of proposed grading or stormwater management structures,  
2 detailed stormwater management plans, or drainage calculations  
3 shall be required;

4 (vi) the approximate location of streams, lakes, ponds, wetlands,  
5 wetlands transition areas, flood hazard areas, and riparian zones,  
6 identifying the source for this information, and a statement setting  
7 forth the anticipated impacts the proposed development may have  
8 on these environmental resources. Any survey submitted to satisfy  
9 this requirement shall be prepared and signed by a licensed land  
10 surveyor, however, a copy of the survey with a copy of the original  
11 signature shall be accepted if the source of the survey is clearly  
12 identified;

13 (vii) property boundaries based on deed information or a survey,  
14 at the developer's option. Any survey submitted to satisfy this  
15 requirement shall be prepared and signed by a licensed land  
16 surveyor, however, a copy of the survey with a copy of the original  
17 signature shall be accepted if the source of the survey is clearly  
18 identified;

19 (viii) If a current survey is not submitted, the application shall  
20 include a certification signed by a licensed professional engineer or  
21 licensed land surveyor indicating that the submitted survey truly  
22 represents current conditions of the site.

23 (c) An identification of proposed sources of potable water and  
24 wastewater treatment facilities.

25 (d) Any variances or exceptions being requested by the  
26 developer for the proposed subdivision.

27 With regard to any application for development for preliminary  
28 approval of a subdivision or other relief submitted under this  
29 section after the effective date of P.L. , c. , the list of documents  
30 and information in this paragraph shall supersede the requirements  
31 of any checklist adopted by ordinance pursuant to section 5 of  
32 P.L.1984, c.20 (C.40:55D-10.3). This paragraph shall not  
33 supersede the requirements of any checklist adopted by ordinance  
34 pursuant section 5 of P.L.1984, c.20 (C.40:55D-10.3) for an  
35 application for development for final approval of a subdivision.

36 b. **【If the planning board required any substantial amendment**  
37 **in the layout of improvements proposed by the developer that have**  
38 **been the subject of a hearing, an amended application shall be**  
39 **submitted and proceeded upon, as in the case of the original**  
40 **application for development.】** (1) **The planning board shall 【, if**  
41 **the proposed subdivision complies with the ordinance and this act,】**  
42 **grant preliminary approval 【to】 of the subdivision if the proposed**  
43 **subdivision complies with ordinance provisions governing the**  
44 **criteria subject to review in connection with an application for**  
45 **development for preliminary approval of a subdivision under**  
46 **subsection a. of this section.**

47 (2) A developer granted preliminary approval of a subdivision  
48 based on an application for development limited to the documents

1 and information set forth in paragraph (3) of subsection a. of this  
2 section shall not conduct or construct site infrastructure  
3 improvements prior to the grant of final subdivision approval.

4 (3) (a) A developer seeking authorization to construct site  
5 infrastructure improvements prior to the grant of final subdivision  
6 approval shall:

7 (i) specifically request authorization to construct site  
8 infrastructure improvements prior to the grant of final subdivision  
9 approval in the application for development for preliminary  
10 approval of the subdivision, and

11 (ii) submit as part of the application for development for  
12 preliminary approval of the subdivision all of the required plans and  
13 specifications for the proposed site infrastructure improvements.

14 (b) The planning board may require a developer seeking to  
15 construct site infrastructure improvements prior to the grant of final  
16 subdivision approval to submit information as is reasonably  
17 necessary for the board to review the plans and specifications with a  
18 sufficient level of scrutiny to determine whether the proposed site  
19 infrastructure improvements have been adequately designed to  
20 accommodate and support the proposed development.

21 (c) Preliminary approval of a subdivision authorizing a  
22 developer to construct site infrastructure improvements prior to the  
23 grant of final subdivision approval shall specifically so provide in  
24 the resolution of approval.

25 (4) As used in this section, "site infrastructure improvements"  
26 shall include, but not be limited to: roadways, grading, sidewalks,  
27 street lighting, storm drainage, underground utility systems for  
28 sewage, water, and natural gas and clearing, and grubbing.

29 c. **【Upon the submission to the administrative officer of a**  
30 **complete application for a】** (1) A planning board shall grant or  
31 deny preliminary approval of a subdivision of 10 or fewer lots 【,  
32 the planning board shall grant or deny preliminary approval】 within  
33 45 days of the date 【of such submission】 a complete application for  
34 development for preliminary approval of the subdivision is  
35 submitted to the administrative officer or within such further time  
36 as may be consented to by the developer. 【Upon the submission of  
37 a complete application for a】

38 (2) A planning board shall grant or deny preliminary approval of  
39 a subdivision of more than 10 lots 【, the planning board shall grant  
40 or deny preliminary approval】 within 【95】 75 days of the date 【of  
41 such submission】 a complete application for development for  
42 preliminary approval of the subdivision is submitted to the  
43 administrative officer or within such further time as may be  
44 consented to by the developer. 【Otherwise】

45 (3) If a planning board does not grant or deny preliminary  
46 approval of a subdivision within the timeframe specified in

1 paragraph (1) or (2) of this subsection, the planning board shall be  
2 deemed to have granted preliminary approval to the subdivision.

3 d. A developer shall submit an application for development for  
4 amended preliminary approval of a subdivision if, after the grant of  
5 preliminary subdivision approval, the developer:

6 (1) seeks to make any substantial revisions to the layout of  
7 improvements;

8 (2) seeks to increase the density for residential development by  
9 more than 10 percent;

10 (3) seeks to make any change to the subdivision plat that  
11 requires a variance from a zoning ordinance governing criteria  
12 subject to review in connection with an application for development  
13 for preliminary approval of a subdivision pursuant to subparagraph  
14 (a) of paragraph (2) of subsection a. of this section; or

15 (4) seeks to make any change to the subdivision that affects the  
16 basis upon which any variance had been granted.

17 e. A developer may, at its option, submit an application for  
18 development for preliminary approval of a subdivision, or an  
19 application for development for amended preliminary approval of a  
20 subdivision, simultaneous with an application for development for  
21 final approval of a subdivision, in which case the planning board  
22 shall simultaneously review and act upon the applications for  
23 preliminary approval and final approval.

24 (cf: P.L.1984, c.20, s.9)

25  
26 4. Section 37 of P.L.1975, c. 291 (C.40:55D-49) is amended to  
27 read as follows:

28 37. Preliminary approval of a major subdivision pursuant to  
29 section 36 of P.L.1975, c.291 (C.40:55D-48) or of a site plan  
30 pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46) shall,  
31 except as provided in subsections d. and g. of this section, confer  
32 upon the applicant the following rights for a **【three-year】 five-year**  
33 period from the date on which the resolution of preliminary  
34 approval is adopted; however, a preliminary approval authorizing a  
35 developer to construct site infrastructure improvements prior to the  
36 grant of final site plan approval pursuant to paragraph (3) of  
37 subsection b. of section 34 of P.L.1975, c.291 (C.40:55D-46) or  
38 paragraph (3) of subsection b. of section 48 of P.L.1975,  
39 c.291 (C.40:55D-48) shall confer upon the applicant the following  
40 rights for a three-year period from the date on which the resolution  
41 of preliminary approval is adopted:

42 a. That the general terms and conditions on which preliminary  
43 approval was granted shall not be changed, including but not  
44 limited to use requirements; layout and design standards for streets,  
45 curbs and sidewalks; lot size; yard dimensions and off-tract  
46 improvements; and, in the case of a site plan, any requirements  
47 peculiar to site plan approval pursuant to section 29.3 of P.L.1975,  
48 c.291 (C.40:55D-41); except that nothing herein shall be construed

1 to prevent the municipality from modifying by ordinance such  
2 general terms and conditions of preliminary approval as relate to  
3 public health and safety;

4 b. That the applicant may submit for final approval on or  
5 before the expiration date of preliminary approval the whole or a  
6 section or sections of the preliminary subdivision plat or site plan,  
7 as the case may be; and

8 c. That the applicant may apply for and the planning board may  
9 grant extensions on such preliminary approval for additional  
10 periods of at least one year but not to exceed a total extension of  
11 two years, provided that if the design standards have been revised  
12 by ordinance, such revised standards may govern.

13 d. In the case of a subdivision of or site plan for an area of 50  
14 acres or more, the planning board may grant the rights referred to in  
15 subsections a., b., and c. of this section for such period of time,  
16 longer than three years, or five years, as applicable, as shall be  
17 determined by the planning board to be reasonable taking into  
18 consideration (1) the number of dwelling units and nonresidential  
19 floor area permissible under preliminary approval, (2) economic  
20 conditions, and (3) the comprehensiveness of the development. The  
21 applicant may apply for thereafter and the planning board may  
22 thereafter grant an extension to preliminary approval for such  
23 additional period of time as shall be determined by the planning  
24 board to be reasonable taking into consideration (1) the number of  
25 dwelling units and nonresidential floor area permissible under  
26 preliminary approval, and (2) the potential number of dwelling units  
27 and nonresidential floor area of the section or sections awaiting  
28 final approval, (3) economic conditions and (4) the  
29 comprehensiveness of the development; provided that if the design  
30 standards have been revised, such revised standards may govern.

31 e. Whenever the planning board grants an extension of  
32 preliminary approval pursuant to subsection c., d., or g. of this  
33 section and preliminary approval has expired before the date on  
34 which the extension is granted, the extension shall begin on what  
35 would otherwise be the expiration date. The developer may apply  
36 for the extension either before or after what would otherwise be the  
37 expiration date.

38 f. The planning board shall grant an extension of preliminary  
39 approval for a period determined by the board but not exceeding  
40 one year from what would otherwise be the expiration date, if the  
41 developer proves to the reasonable satisfaction of the board that the  
42 developer was barred or prevented, directly or indirectly, from  
43 proceeding with the development because of delays in obtaining  
44 legally required approvals from other governmental entities and that  
45 the developer applied promptly for and diligently pursued the  
46 required approvals. A developer shall apply for the extension  
47 before (1) what would otherwise be the expiration date of  
48 preliminary approval or (2) the 91st day after the developer receives

1 the last legally required approval from other governmental entities,  
2 whichever occurs later. An extension granted pursuant to this  
3 subsection shall not preclude the planning board from granting an  
4 extension pursuant to subsection c. or d. of this section.

5 g. In the case of a site plan for a development consisting of not  
6 less than 150,000 square feet of nonresidential floor area or not less  
7 than 100 residential dwelling units, or consisting of a combination  
8 of square feet of nonresidential floor area and residential dwelling  
9 units, which when proportionately aggregated at a rate of 1,500  
10 square feet of nonresidential floor area to one residential dwelling  
11 unit, are equivalent to at least 150,000 square feet of nonresidential  
12 floor area or 100 residential dwelling units, the planning board may  
13 grant the rights referred to in subsections a., b., and c. of this  
14 section for such period of time beyond three years, or five years, as  
15 applicable, as shall be determined by the planning board to be  
16 reasonable taking into consideration (1) the number of dwelling  
17 units and non-residential floor area permissible under preliminary  
18 approval, (2) economic conditions, and (3) the comprehensiveness  
19 of the development. The applicant may apply for thereafter, and the  
20 planning board may thereafter grant, an extension to the preliminary  
21 approval for such additional period of time as shall be determined  
22 by the planning board to be reasonable taking into consideration (1)  
23 the number of dwelling units and nonresidential floor area  
24 permissible under preliminary approval, (2) the potential number of  
25 dwelling units and nonresidential floor area of the section or  
26 sections awaiting final approval, (3) economic conditions, and (4)  
27 the comprehensiveness of the development; provided that if the  
28 design standards have been revised, such revised standards may  
29 govern.

30 (cf: P.L.2011, c.86, s.2)

31  
32 5. Section 38 of P.L.1975, c.291 (C.40:55D-50) is amended to  
33 read as follows:

34 38. Final approval of site plans and major subdivisions.

35 a. The planning board shall grant final approval if the detailed  
36 drawings, specifications and estimates of the application for final  
37 approval conform to the standards established by ordinance for final  
38 approval, conform in all material respects with the conditions of  
39 preliminary approval and, in the case of a major subdivision,  
40 conform to the standards prescribed by N.J.S.46:26B-1 et seq.;  
41 provided that the planning board:

42 (1) shall permit changes to the preliminary site plan or  
43 subdivision plat, as the case may be, that do not require the  
44 developer to submit an application for development for amended  
45 preliminary approval pursuant to subsection d. of section 34 of  
46 P.L.1975, c.291 (C.40:55D-46) or subsection d. of section 36 of  
47 P.L.1975, c.291 (C.40:55D-48);

(2) shall consider and may grant requests for variances authorized pursuant to subsubparagraph (ii) of subparagraph (c) of paragraph (2) of subsection a. of section 34 of P.L.1975, c.291 (C.40:55D-46), and subsubparagraph (ii) of subparagraph (c) of paragraph (2) of subsection a. of section 36 of P.L.1975, c.291 (C.40:55D-48); and

(3) in the case of a planned development, [the planning board] may permit minimal deviations from the conditions of preliminary approval necessitated by change of conditions beyond the control of the developer since the date of preliminary approval without the developer being required to submit another application for development for preliminary approval.

b. Final approval shall be granted or denied within [45] 95 days after submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. Failure of the planning board to act within the period prescribed shall constitute final approval and a certificate of the administrative officer as to the failure of the planning board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

Whenever review or approval of the application by the county planning board is required by section 5 of P.L.1968, c.285 (C.40:27-6.3), in the case of a subdivision, or section 8 of P.L.1968, c.285 (C.40:27-6.6), in the case of a site plan, the municipal planning board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time period. Nothing in P.L. , c. (C. ) (pending before the Legislature as this bill) shall supersede, or relieve an applicant from satisfying, land development procedures and standards adopted by the governing body of a county pursuant to section 4 of P.L.1968, c.285 (C.40:27-6.2) or section 8 of P.L.1968, c.285 (C.40:27-6.6), nor supersede, or relieve a municipal approving authority from complying with, section 5 of P.L.1968, c.285 (C.40:27-6.3) and section 9 of P.L.1968, c.285 (C.40:27-6.7).

(cf: P.L.2013, c.106, s.12)

6. This act shall take effect on the first day of the fourth month next following enactment.

#### STATEMENT

This bill amends the "Municipal Land Use Law" (MLUL), P.L.1975, c.291 (C.40:55D-1), to clarify the approval process for

1 site plans and subdivisions, specifically to distinguish between the  
2 requirements applicable to preliminary and final approvals,  
3 consistent with the Legislature's original intent. The two-step  
4 preliminary/final approval process under the MLUL was instituted  
5 to provide developers of significant projects the ability to receive  
6 preliminary approval of proposed development projects based upon  
7 a board's review of plans in tentative form. The two-step process  
8 enables a developer to secure approval of the general terms and  
9 conditions of a proposed project before incurring the costs of  
10 providing detailed plans and specifications. A grant of preliminary  
11 approval provides a developer with a period of protection from  
12 changes to the general terms and conditions on which the  
13 preliminary approval was granted. This period of protection affords  
14 a developer security and time to assemble and submit expensive  
15 detailed plans and specifications that are required for final approval.

16 Unfortunately, in many municipalities the application process for  
17 preliminary site plan and subdivision approval has evolved to the  
18 point where detailed plans, specifications, and engineering data are  
19 often required at the preliminary stage. When developers are forced  
20 to incur the significant costs of preparing and submitting detailed  
21 engineering plans at this early, preliminary, stage of the approval  
22 process, they become reluctant to change their proposals, in  
23 response to comments and requests from planning board members  
24 and members of the public, due to the costs associated with  
25 redesigning their plans.

26 By reevaluating the two-step process, and clearly distinguishing  
27 the critical components needed for preliminary approval from the  
28 more involved and detailed information required for final approval,  
29 this bill intends to enable applicants to secure preliminary approval  
30 of the overall layout of a proposed site plan or subdivision before  
31 incurring the expense of preparing detailed engineering plans,  
32 specifications, and analyses. This change is meant to reduce the  
33 possibility of animosity between applicants, boards, and the general  
34 public, by positioning applicants to be more receptive to revise their  
35 plans in response to public opinion and comments from planning  
36 board members.

37 Specifically, the bill provides that a planning board's review of  
38 an application for development for preliminary approval of a site  
39 plan would be limited to the following criteria:

- 40 • the layout and arrangement of proposed buildings, streets,  
41 parking, and other proposed site improvements; and
- 42 • compliance with the use, density, floor area ratio, height,  
43 and other zoning standards applicable to the zoning district.

44 Similarly, under the bill, a planning board's review of an  
45 application for development for preliminary approval of a  
46 subdivision would be limited to the following criteria:



- 1       • the layout and arrangement of proposed lots, as well as any
- 2       proposed streets, parking, known easements, and other
- 3       proposed site improvements; and
- 4       • compliance with the use, density, and other zoning standards
- 5       applicable to the zoning district.

6       The bill requires developers to include requests for any “C”  
7       variances from zoning ordinance provisions governing these criteria  
8       in their applications for preliminary approval. The bill allows  
9       developers to include requests for other “C” variances in their  
10      applications for preliminary approval, or to defer those variance  
11      requests until final approval. The bill defers review relative to  
12      assessment of contributions for off-tract improvements until final  
13      approval.

14      The bill details the documents and information that an applicant  
15      for preliminary approval of a site plan or subdivision may be  
16      required to submit for the application to be considered complete for  
17      the planning board's consideration. The bill authorizes planning  
18      boards to request additional “reasonably necessary” information, if  
19      an application for preliminary approval includes a request for a “C”  
20      variance.

21      The bill shortens the period of time within which a board must  
22      grant or deny an application for preliminary approval of more  
23      extensive projects (site plans involving more than 10 acres or more  
24      than 10 dwelling units, and subdivisions of more than 10 lots) from  
25      95 to 75 days after the date on which a complete application for  
26      development is submitted.

27      The bill specifies four circumstances that require a developer to  
28      submit an application to amend a preliminary approval. A  
29      developer must submit an application for development for amended  
30      preliminary approval of a site plan if, after the grant of preliminary  
31      site plan approval, the developer seeks to:

- 32      • make any substantial revisions to the layout of
- 33      improvements;
- 34      • increase the density for residential development by more
- 35      than 10 percent or the floor area ratio for nonresidential
- 36      development by more than 10 percent;
- 37      • make any change to the site plan that requires a variance
- 38      from a zoning ordinance governing criteria subject to review
- 39      in connection with an application for development for
- 40      preliminary approval; or
- 41      • make any change to the site plan that affects the basis upon
- 42      which any variance had been granted.

43      A developer must submit an application for development for  
44      amended preliminary approval of a subdivision if, after the grant of  
45      preliminary subdivision approval, the developer seeks to:

- 46      • make any substantial revisions to the layout of
- 47      improvements;

- 1       • increase the density for residential development by more
- 2       than 10 percent;
- 3       • make any change to the subdivision plat that requires a
- 4       variance from a zoning ordinance governing criteria subject
- 5       to review in connection with an application for development
- 6       for preliminary approval of a subdivision; or
- 7       • make any change to the subdivision that affects the basis
- 8       upon which any variance had been granted.

9       The bill provides that a developer may, at its option, submit an  
10      application for preliminary approval, or an application to amend a  
11      preliminary approval, simultaneous with an application for final  
12      approval. In this case, the bill requires a planning board to  
13      simultaneously review and act upon the applications for preliminary  
14      approval, amended preliminary approval, and final approval.

15      Under the bill, a developer seeking to construct site  
16      infrastructure improvements prior to a grant of final approval must  
17      specifically request authorization to do so in its application for  
18      preliminary approval. Under this circumstance, the bill requires the  
19      applicant to submit the required plans and specification for the  
20      proposed site infrastructure improvements as well as other  
21      information as is reasonably required by the planning board to  
22      determine whether the proposed site infrastructure improvements  
23      are adequate. A preliminary approval authorizing a developer to  
24      construct site infrastructure improvements prior to final approval  
25      must specifically so provide in the resolution of approval.

26      To allow sufficient time for completion of the detailed  
27      engineering plans and outside agency approvals associated with  
28      final approval of subdivisions and site plans, the bill extends the  
29      vesting period for preliminary approvals from three years to five  
30      years. However, with regard to a preliminary approval that  
31      authorizes construction of site improvements prior to final approval,  
32      the bill retains the three-year vesting period.

33      The bill would amend the statute governing the standards for  
34      final approval of site plans and major subdivisions by requiring a  
35      planning board to grant final approval if the detailed drawings,  
36      specifications and estimates of the application for final approval:

- 37      • conform to the standards established by ordinance for final
- 38      approval;
- 39      • conform in all material respects with the conditions of
- 40      preliminary approval; and
- 41      • in the case of a major subdivision, conform to the statutory
- 42      requirements for approval or filing of a map.

43      However, the bill provides that, in granting final approval of a  
44      site plan or major subdivision, a planning board must:

- 45      • permit changes to a preliminary approval that do not require
- 46      the developer to submit an application to amend the
- 47      preliminary approval; and

- 1       • consider and may grant requests for “C” variances that may,  
2       under the bill, be deferred until final approval.

3       The bill would expand the time within which a board must grant  
4       or deny final approval from 45 days to 95 days after submission of a  
5       complete application for final approval.

6       The bill specifies that its provisions do not supersede or relieve  
7       an applicant from satisfying a county’s land development  
8       procedures and standards, nor supersede, or relieve a municipal  
9       approving authority from complying with, provisions of the County  
10      Planning Act, N.J.S.A. 40:27-1 et seq.